

X. SINGLE-FAMILY PROGRAM GUIDELINES

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A. Introduction:

The primary purpose of the HOME Program is to provide decent, affordable housing for low-income households. This section will present an overview of the procedures and requirements that Grantees will have to follow in implementing the single-family program.

The Department of Commerce, Division of Housing and Community Development (DHCD) will monitor the performance of grantees based upon the contents of this manual and the individual program details spelled out in the contract. DHCD will also provide technical assistance. Grantees are urged to use this manual and to call the HHR Program Manager to answer any implementation questions.

The Single-Family Program funds can be used to:

- Assist low-income homeowners in the rehabilitation of their homes. Rehabilitation assistance can be used to make essential improvements. Whenever HOME funds are used for rehabilitation, the work must be performed according to the Grantee's written property standards and the assisted unit must meet applicable state or local code.

Grantees may not undertake some forms of special purpose homeowner repair programs such as: weatherization, emergency repair programs, or handicapped accessibility programs. However, this type of assistance may be undertaken if the unit meets or will be brought up to the applicable property standard.

- Create affordable homeownership opportunities. These programs may:
Provide direct assistance to low-income households in the form of grants or loans to cover some of the costs of homeownership (such as down payment, closing costs) and/or address issues of supply by constructing or acquiring, rehabilitating and selling single-family homes. No assistance may be provided for purchase of property located in the 100-year floodplain. No HOME funds may be used toward the purchase of excess land.

B. Compliance:

Eligible Applicants

Programs supported with HOME funds may only provide assistance to low-income households. To qualify for assistance, an applicant must:

- ◆ Qualify as a low-income household; that is, have an annual (gross) income that does not exceed 80 percent of the county median income limit published by HUD.
See Chapter XI Income Guidelines and Limits for definition of income, income limits, and information on determining eligibility.
- ◆ Occupy the property as the principal residence upon completion of the activity. Properties used as second homes or temporary residences are not eligible for assistance.
- ◆ Own the property under an approved form of ownership:
 1. Fee simple title
A fee simple buyer acquires ownership of the entire property, including both land and buildings. The fee simple owner has the right to possess, use and dispose of the property as s/he wishes--sell it, give it away, lease it to others, or pass it to others upon death.
 2. 99-year lease;
 3. Condominium ownership; or
 4. Own or have membership in a cooperative/mutual housing project that constitutes homeownership under state law.

To meet this requirement, there can be no restrictions or encumbrances that unduly restrict the marketable nature of this ownership interest.

Life estates are not an eligible form of ownership under the HOME program.

Eligible Properties and Property Standards

◆ Eligible Property Types:

Homeowners: Any single-family property that serves as the household's principal residence and is owned in fee simple title or a 99-year leasehold is potentially eligible. For purposes of housing located on trust or restricted Indian lands, homeownership includes leases of 50 years. Manufactured housing meets the HOME program definition of homeownership through fee simple title to the real property or title to the manufactured home.

Homebuyers: Eligible property types include any property that will serve as the purchaser's principal residence, including:

A single-family property (one unit);

A two-unit property:

If HOME funds are used to assist a purchaser to acquire one unit in a two-unit property and that unit will be the principal residence of the purchaser, the long-term affordability requirements apply to the assisted ownership unit only.

If HOME funds are used to help a purchaser acquire one or more rental units along with the homeownership unit, the HOME rental affordability requirements apply to the rental units.

A condominium unit;

A co-operative or mutual housing unit;

A manufactured home:

At the time of activity completion, the manufactured housing must be connected to permanent utility hook-ups.

The manufactured home must be located on land that is owned by the manufactured housing unit owner, or on land for which the manufactured housing unit owner has a lease for a period at least equal to the applicable period of affordability.

◆ **Maximum Property Value (Purchase Price/After-Rehab Value Limit):**

The value of any HOME-assisted property (land and buildings) must not exceed 95% of the median purchase price for that type of single-family housing for the area.

See Chapter I HOME Program Requirements.

After rehab value: If rehabilitation is undertaken, an estimate of the property's value **after rehabilitation** must be made to document that it does not exceed the 95% limit. The after-rehabilitation value estimate should be completed prior to investment of HOME funds.

Acceptable methods for establishing the value of the property include:

- ◆ Estimate of value: An estimate of value performed by the Grantee. The activity file must contain the estimate(s) of value and document the basis for the value estimate.
- ◆ Appraisal: An appraisal performed by a licensed fee appraiser. The activity file must document the appraised value and the appraisal approach used.
- ◆ Tax Assessments: Tax assessment of a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value **if** the assessment is current and accurately reflects market value **after** rehabilitation. Assessments based on a percentage of market value may be used, if adjusted to reflect actual market value.

Acquisition only: In the case of property that does not require rehabilitation grantees should obtain a copy of the lender appraisal to establish the value of the property.

Grantees must have documentation of value in the activity file.

◆ **Maximum Per Unit Subsidy Limits:**

HUD has established the maximum amount of HOME dollars that may be used in a single activity. Additional costs must be covered from other sources.

The amount is based on the number of bedrooms in the unit. See Chapter I. HOME Program Requirements.

◆ **Property Standard:**

Acquisition only projects: The property must be inspected prior to providing HOME assistance. The property must meet State and local code requirements at the time of purchase and occupancy. If no such codes apply, the failed item must be brought up to the Grantee's written property standard, including correction of all HQS fail items.

Rehabilitation: The property must be inspected prior to providing any HOME assistance. For projects involving rehabilitation, the property must meet Section 8 Housing Quality Standards, local codes, and the Grantee's written property standard **within 6 months** of occupancy.

New Construction: For projects involving new construction, the property must meet the State of

Wisconsin Uniform Dwelling Code (UDC) and the Model Energy Code. The Model Energy Code is included in the UDC.

Eligible Activities

The single-family program can assist homebuyers and homeowners through various activities.

Homeowner Activities:

HOME funds may be used to assist existing homeowners with:

- ◆ **Rehabilitation**

This includes the alteration, improvement or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure under special conditions.

- ◆ **Reconstruction of owner-occupied housing units**

This refers to rebuilding a structure on the same lot where housing is standing at the time of activity commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction also includes replacing a substandard manufactured house with a new manufactured house. During reconstruction, the number of rooms per unit may change, but the number of units may not.

NOTE: Replacing a manufactured housing unit with a stick-built unit is considered a homebuyer activity even if the household owns the lot and existing manufactured unit.

Homebuyer Activities:

- ◆ **Acquisition:** Grantees can help eligible homebuyers purchase affordable homes by providing down payment and closing cost assistance. For many potential homebuyers this is the biggest barrier to home ownership. While they may have a steady income that would allow them to make monthly payments, they do not have the means to save for the up-front costs of purchasing a home.

Gap financing may be used when the homebuyer has a steady income that is insufficient to cover the total monthly payment. The most efficient way to reduce the monthly payment is to reduce the principal amount that s/he must borrow.

Lease-purchase may be used in conjunction with a homebuyer program. Ownership must be conveyed to an eligible homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income household at the time the lease-purchase agreement is signed.

- ◆ **Acquisition and Rehabilitation:** In areas where there is insufficient standard housing rehabilitation may be incorporated into the homebuyer program. This may be done in either of two ways:
 - (1) The grantee acquires and rehabilitates the substandard property and then sells it after rehabilitation to an LMI purchaser.
 - (2) The assistance is provided directly to the homebuyer after the purchase.
- ◆ **New Construction:** The grantee may develop housing or may work directly with developers to construct housing.

All single-family housing being constructed in whole or in part with HOME funds must be "visitable."

Visitability features are: (1) wide entry door, (2) a half bath/powder room on the main floor, (3) one zero-step entrance, (4) all main floor interior doors with 32" of clear space.

New construction may be built to Wisconsin Energy Star standards.

Forms of Financial Assistance

There are a number of ways to structure HOME assistance. Regardless of the type of assistance, grantees may choose to finance all of the cost or only a portion of the cost.

- ◆ **Below market rate loans:** These are amortizing loans. Repayment is expected on a regular basis, usually monthly, so that over a fixed period of time, all of the principal and interest is repaid. Such loans often have very low interest rates to make monthly payments affordable to the borrower. The property is used as collateral.
- ◆ **Deferred payment loans:** Deferred loans can be structured in many different ways. They can be forgivable or repayable. If forgivable, the forgiveness may be structured to occur at one point in time (such as at the end of the affordability period) or forgiven incrementally (such as forgiving an equal portion over each year of the affordability period). If repayable, repayment may be required at the sale or transfer of the property or at the end of a fixed period of time. These loans can accrue interest or be non-interest bearing. The property is used as collateral.
NOTE: All mortgage/promissory notes should contain language basing the recapture amount on the net proceeds available from the sale.
- ◆ **Grants:** may be used for homeowner rehabilitation programs to provide the deep subsidy required by the very low- and low-income participants. Homebuyer acquisition assistance may not be given as a "grant" unless the property is deed restricted for the period of affordability

Eligible Housing Costs

Eligible costs depend on the nature of the program activity. A definition of administrative vs. project costs is found at Chapter IV. This is a general listing of eligible project costs:

- ◆ **New construction:** Any project that includes the addition of dwelling units outside the existing wall of a structure is considered new construction. HOME funds may be used for new construction of single family housing.
- ◆ **Rehabilitation:** this includes the alteration, improvement or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction. Reconstruction is considered a rehabilitation activity. Reconstruction refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment.
- ◆ **Conversion:** Conversion of an existing structure from another use to affordable single-family housing is usually classified as rehabilitation. Conversion of a structure to commercial use is prohibited.
- ◆ **Site improvements:** Site improvements must be in keeping with improvements to surrounding standard projects. They include new, on-site improvements (sidewalks, utility connections, sewer and water lines) where none are present. They are essential to development or repair of existing improvements. Off-site infrastructure is not eligible as a HOME expense, but may be eligible for match credit.

- ◆ Acquisition of property: Acquisition of existing standard property (land and improvements), or substandard property in need of rehabilitation, is eligible as part of a homebuyer program.
- ◆ Acquisition of vacant land: HOME funds may be used for acquisition of vacant land **only** if construction will begin on a HOME homebuyer project within 12 months of purchase. Land banking is prohibited.
- ◆ Relocation costs: The Uniform Relocation Act and Section 104(d) (also known as the Barney Frank Amendments) apply to all assisted properties. Both permanent and temporary relocation assistance are eligible costs. Information on Temporary Relocation is found in Chapter XIII.

Long-Term Affordability for Homebuyer Activities

The HOME program sets affordability periods that relate to the resale of the property. These periods are based on the amount of HOME funds provided for the property.

◆ Period of Affordability

HOME-assisted homebuyer properties must remain affordable for a specific period of time, based on the total HOME investment. The total HOME investment includes: all funds invested for direct acquisition, construction or development contributions to the homebuyer, soft costs, project delivery costs, gap financing, and interest rate buy-downs.

HOME Affordability Periods	
HOME Investment	Affordability Period
Less than \$15,000	5 years
\$15,000 - \$40,000	10 years
\$40,000 or more	15 years

◆ Recapture and Resale Options

Certain restrictions must be placed on assisted homebuyer properties in order to help preserve affordable housing. If ownership of a property is transferred during the affordability period, these provisions are triggered.

Some definitions (in order to discuss the two options it helps to understand several terms):

Direct assistance: Direct subsidy/assistance to the homebuyer is the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. The direct subsidy includes downpayment, closing costs, or other HOME assistance provided directly to the homebuyer. In addition, direct subsidy includes any assistance that reduced the purchase price from fair market value to an affordable price.

Development subsidy: A development subsidy is the difference between the cost to develop housing and the fair market price. For example, a grantee might provide a \$50,000 construction loan to a developer. The appraised value after construction will be \$45,000 because of neighborhood and market conditions. The \$5,000 difference between the \$45,000 sale price and \$50,000 construction loan is not repaid to the grantee and represents a development subsidy provided to the developer. While the subsidy does not go directly to the homebuyer, it helps make development of an affordable home feasible.

Since development subsidies are not subject to recapture, projects consisting of development subsidies only, with no direct subsidy to the homebuyer, must use the resale provision.

Net proceeds: The net proceeds of a sale are the sales price minus closing costs and any non-HOME loan repayments.

Grantees have two options to ensure that the HOME subsidy originally invested in the property is used to preserve affordable housing:

Recapture: These provisions apply when direct assistance is provided to the homebuyer. Recapture is a mechanism to recapture all or a portion of the direct HOME assistance if the recipient decides to sell the house within the affordability period at whatever price the market will bear.

Under this option, the grantee may require the homebuyer to repay all of the HOME assistance received or may forgive part or all of the assistance over the term of the affordability period. The amount of repayment required and method of calculating the amount of repayment (if only partial repayment is required) must be clearly outlined in the written agreement with the homebuyer.

Forgiveness must be tied to the length of time the homebuyer has occupied the home in relation to the period of affordability (i.e., the grantee would forgive 50% of the assistance amount for an owner who sold the home half-way through the period of affordability).

Net proceeds: When the net proceeds are not sufficient to repay the direct HOME assistance and the homebuyer's investment, the net proceeds may be shared in either of two ways:

1. Recapture may be based on the ratio of the HOME assistance to the sum of the homeowner's investment (down payment and any capital improvement investment made by the owner since purchase), plus the HOME subsidy:

$$[\text{HOME \$}/(\text{HOME \$} + \text{Homeowner Investment})] \times \text{Net Proceeds} = \text{Recapture}$$

2. The homeowner's investment may be repaid in full before any HOME funds are recaptured. The grantee may choose to use the available proceeds from the resale to repay the homeowner's investment first. The HOME assistance is then repaid to the extent that proceeds are available.

Resale: This option ensures that the HOME-assisted property remains affordable for the entire period of affordability.

If the unit is sold during the period of affordability, the sale must meet the following criteria: The new purchaser must be LMI and occupy the property as the family's principal residence. The sales price must be "affordable" to the new purchaser. Affordable is defined by the grantee. Many times affordable is defined as a maximum percentage of the purchaser's income that can be used to pay the fixed costs of owning a home (i.e., loan payment of principal and interest, taxes and insurance--PITI.)

Grantees must use deed restrictions or land covenants to enforce the resale restrictions.

Subsidy Layering

Occasionally, an activity requires additional funds, or funds from multiple sources, to be completed. The DHCD allows the subsidy layering of other federal funds in the production of affordable housing opportunities. (See 24 CFR 92.250 and Notice CPD 98-01).

When additional funds are needed to complete an activity, the grantee should follow these steps in deciding how to financially package the activity:

1. Reduce costs wherever possible and identify non-HOME resources to fill any subsidy gaps. Using non-federal dollars in an activity is one of the major goals of the HOME program, and the

use of non-federal dollars may provide a source of match. Other federal funds (e.g., CDBG) may be used, but may not be counted as match.

2. Where two HOME grantees are working on an activity together, only one of the grantees should put its HOME funds into the activity, and request a Waiver of Maximum Assistance from the HOME Program Manager for that particular activity. Having one grantee take the financing "lead" eliminates double paperwork, counting, and tracking at the local, state, and federal level.
3. As a last option, where it is in the best interest of the client, the grantee, and/or the State to provide HOME dollars from two BOH HOME grantees, a Multiple Grantees for HOME Funding Waiver Request form must be submitted and signed by the parties authorized to sign contracts. The waiver will include a **detailed** activity description, and the reason that such an exception should be granted.

Where two grantees are putting funds into one project, only one grantee will be permitted to claim the activity toward its contract goals. Each grantee will need to set up its own activity, and will be held responsible for providing DHCD with the proper information to eliminate potential double counting. All documents from each grantee, with respect to the common activity, must be consistent with each other.

C. Administration/Recordkeeping:

As a grantee, you must establish a filing system for your grant. The file system should include the following:

- ◆ Application file: Application file, amendments and revisions (if any), correspondence about the application.
- ◆ Contract file: Award letter, original signed contract plus any amendments.
- ◆ Equal Opportunity and Fair Housing file: See Chapter II for record keeping requirements.
- ◆ Procurement File: Must contain written local procurement procedures for securing good and services. When securing consultant services for administration or for audit there must be a clear and accurate description of the technical requirements for the service to be performed. The "cost plus a percentage of cost" or "percentage of construction cost" methods of contracting shall not be used.
- ◆ Financial Management file: Must include payroll information for all staff whose salary is paid in whole or in part with HOME funds, receipts for all purchases made with HOME administrative funds. If administrative funds are used to pay rent, telephone, copying, or any other overhead charges, records must document those payments and the grantee's allocation policy must be available for review. A record of all fees collected as part of the administration of the program and the expenditure of those dollars must be maintained. All program income must be tracked.
- ◆ Individual project files: Individual homebuyer and owner-occupied rehabilitation activity files should contain a complete record of all project activities. The type of documentation which must appear in every individual homebuyer file includes:
 - Completed and signed application;
 - Release of information form;
 - Verification of income and calculation of eligibility;
 - Proof of homebuyer education;
 - Affordability calculation;
 - HQS Inspection;

- Statutory checklist;
- Correspondence with DHIR Environmental Desk (if applicable);
- Relocation Notice (If applicable);
- Risk assessment and clearance testing;
- Work write-up/specifications and cost estimate;
- Estimate of after rehab value;
- Contractor bids for work;
- Copy of signed contract(s) between homebuyer and contractor;
- Request for Payment for each payment signed by homebuyer, contractor, and inspector;
- Change Order signed by homebuyer, contractor, and inspector (if applicable);
- Mortgage;
- Promissory Note detailing repayment requirements and principal residency requirements;
- Truth-in-lending form. Form must include disclosure of any fees charged against the loan (inspection, clearance testing, recording mortgage);
- Right of Recission (not applicable to acquisition-only activities);
- Proof of buyer cash contribution
- Activity set-up form;
- Completion form;
- Match work sheet(s).

If only acquisition assistance is being provided there must be a completed HQS inspection form in the file. None of the bidding and contracting information would be required.

- ◆ Acquisition file: If land or improved property is being acquired by a grantee a separate file shall be established showing Federal and State acquisition requirements were followed.
- ◆ Housing Assistance Applications

All applications for assistance with HOME funds must include at a minimum:

- ◆ Applicant's name and address
- ◆ Occupant's name and address
- ◆ Number of children in the household and their ages
- ◆ Marital property statement:

No provision of a marital property agreement (including a Statutory Individual Property Agreement pursuant to Sec. 766.587, Wis. Stats.), unilateral statement classifying income from separate property under Sec. 766.59, or court decree under Sec. 766.70 adversely affects the creditor unless the creditor is furnished with a copy of the document prior to the credit transaction or has actual knowledge of its adverse provisions at the time the obligation is incurred.

- ◆ Racial, ethnic, and gender characteristics of the head of household – or option not to answer
- ◆ Conflict of Interest questions.

Grantees may also include requests for information on income and current employment. If the grantee is including a **release of information** statement as part of the application have the applicant sign or initial that statement separately to acknowledge that they have read and understand that information will be requested on sources of income.

The Grantee will maintain a record of **all applicants for and beneficiaries of HOME funds.**

- ◆ Local Housing Policies: Grantees must have written local policies addressing:

Subordination:

The Grantee may elect to subordinate its Home mortgage to another lender under the following conditions:

1. The funds resulting from the subordination will be used to:
 - ◆ Refinance an existing mortgage to obtain a reduced interest rate.
 - ◆ Refinance an existing mortgage to obtain a comparable interest rate and extended payment terms.
 - ◆ Obtain a home equity loan for the sole purpose of rehabilitating their primary residence.
 - ◆ Refinance an existing mortgage as necessary to halt foreclosure proceedings by a bank or to halt tax deed proceedings by the county.
 - ◆ Obtain a home equity loan to pay for medical emergencies.
2. The Grantee will not consider requests to subordinate for "cash to homeowner" transactions. A subordination will not be awarded if it places the Grantee's security interest in jeopardy, as determined by standard underwriting practice, unless required to halt foreclosure or tax deed proceedings or to assist with medical emergencies.
3. Homeowners who anticipate refinancing an existing loan and request that the Grantee subordinate its mortgage position, must submit in writing the following information:
 - ◆ The reason for the subordination request.
 - ◆ The name, address, and contact person(s) at the cooperating financial institution.
 - ◆ The new mortgage amount that would take precedence over the grantee's mortgage, including monthly payment and interest rate.
 - ◆ Copies of estimates for any rehab/construction work being completed.
4. The subordination agreements must be drafted at the homeowner's expense by the cooperating financial institution or legal counsel.
5. The conditions for subordination must be included in the Grantee's Housing Procedures.

Applicant eligibility:

To be eligible to receive HOME Homebuyer assistance the household income of the applicant cannot exceed 80% of County Median Income and the home must be the applicant's principal residence. Grantees may establish local eligibility criteria.

Grievance procedures:

All applicants for HOME assistance must be notified in writing of their right to appeal. Grantees must have in place an appeal policy stating:

- ◆ Agency staff person appeals should be directed to--name, address, phone number;
- ◆ The appeal must be in writing;
- ◆ Must include the name of the housing program;
- ◆ Short summary of why the person is appealing the decision;

- ◆ Time period for filing (e.g., appeal must be filed within 15 days of receipt of denial by agency);
- ◆ Time period in which agency will respond to appeal (e.g., HOME grant administrator will review the decision and respond within 30 days.)

Amount of assistance provided to a beneficiary: HOME activity must be for a minimum of \$1,000. Grantee should also state maximum amount of assistance that will be provided. The Grantee is expected to evaluate each activity in accordance with program guidelines prior to committing HOME Homebuyer funds. Grantees will not invest any more funds in combination with other assistance than is absolutely necessary to provide affordable housing.

Prior to providing assistance grantees must also determine the value of the property and after all rehabilitation has been completed. The value of the improved property cannot exceed the HUD Maximum Purchase Price or After Rehab Value Limits found in Chapter XVI.

Forms of assistance provided: Grantee policy should clearly state the terms of the assistance (interest rate, term for loans) and type of assistance (down payment, rehabilitation).

Homebuyer cash contribution: Applicants receiving homebuyer acquisition assistance must provide a cash contribution from the buyer's resources. The minimum cash contribution of \$250 for buyers at $\leq 30\%$ CMI; \$500 for buyers at 31-50% CMI; \$1,000 for buyers 51-80% CMI.

